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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,526	08/17/2001	Alexei Glebov	6938/60459 (25916-232)	4293
30764	7590	06/30/2004	EXAMINER	
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP 333 SOUTH HOPE STREET 48TH FLOOR LOS ANGELES, CA 90071-1448			DUVERNE, JEAN F	
			ART UNIT	PAPER NUMBER
			2839	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/932,526	Applicant(s) GLEBOV ET AL.	
	Examiner Jean F. Duverne	Art Unit 2839	

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of applicant's argument, the examiner has decided to issue a second non-final office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9, 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over buchi (US005909524A).

Tabuchi's device discloses an optical substrate assembly comprising: a substrate (100A) depositing a first and second cladding or a covering material (130A) deposit on the first layer on the substrate (10, 100) with waveguide (33, 230, 260, 270) forming a first recess or grooves at 131 or 140 in the first cladding layer; disposing a plurality of first deflector electrode assemblies (15, 16, 22), in the first recess depositing a core layer at 140A or 20 on the on the first cladding layer an over the first electrode assemblies forming lenses in the core layer to produce an optical substrate assembly; the grooves or opening being formed by the etching (see fig. 12) comprising forming the alignment frame assembly spaced corners assembly. However, Tabuchi's device fails to explicitly

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disclose the size of the lenses. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the micro-lenses in the core of layer, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level skill of the ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the micro-lenses in the core of layer in order to meet the system design and requirement.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean F. Duverne whose telephone number is (703) 872-9306. The examiner can normally be reached on 9:00-7:30, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on (703) 308-2710. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

**Any response to this action may be mailed to:
Commissioner for Patents
P.O. Box 1450**

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Alexandria, VA 22313-1450

For additional information regarding this new address, which was effective May 1, 2003, see *Correspondence with the United States Patent and Trademark Office*, 68 Fed. Reg. 14332 (March 25, 2003).

Or Faxed to:
(703) 872-9306.

JFD

6/21/2004



Jean-François Duverne
Primary Examiner
Art Unit 2839